

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:19-CR-3
Judge Bailey

MICHAEL JOHN MAISEY,

Defendant.

**MEMORANDUM OPINION AND ORDER DENYING
RECONSIDERATION OF ORDER DENYING COMPASSIONATE RELEASE**

Pending before this Court is *pro se* letter motion seeking reconsideration of this Court's prior denial of compassionate release [Doc. 94].

On April 16, 2020, Mr. Maisey filed a motion seeking home confinement and compassionate release [Doc. 57]. By order entered April 20, 2020, this Court denied the transfer to home confinement on the grounds that the defendant failed to show extraordinary and compelling reasons for his early release and that the defendant had failed to ask the Warden for compassionate release. The Court also noted "the instant offense for which he is incarcerated is for being a felon in possession of a firearm. This Court also notes the defendant has a lengthy criminal history which resulted in a criminal history category IV. Finally, this Court notes defendant's pretrial bond was revoked after failing to appear for three drug screens." [Doc. 58].

On May 4, 2020, Mr. Maisey, through counsel, filed a motion seeking reconsideration of the denial of release [Doc. 59]. That motion documents that the

defendant did in fact seek release from the Warden at Butner Low. Upon receipt of the motion to reconsider, this Court directed the Government to respond [Doc. 61].

By order entered August 25, 2020, this Court denied the motion to reconsider [Doc. 73]. On September 17, 2020, Mr. Maisey filed a letter motion seeking compassionate release [Doc. 84]. By order entered October 1, 2020, this Court denied that portion of the motion seeking compassionate release as duplicative of the prior motion, which was on appeal [Doc. 85].

On January 7, 2021, Mr. Maisey filed a motion seeking reconsideration of this Court's October 1, 2020, Order [Doc. 94], which is pending.


In the pending motion, the defendant notes that he has tested positive for COVID-19, which due to his leukemia presents a risk to his life. A careful review of his positive test, however, reveals that he was found positive on June 2, 2020, or over seven months ago. In addition, Butner Low is reported to have no active inmate cases at this time. These facts, together with his lack of amenability to the rules, lead this Court to the conclusion that reconsideration should be denied.

For the reasons stated above, defendant's *pro se* letter motion seeking reconsideration of this Court's prior denial of compassionate release [**Doc. 94**] is **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: January 12, 2021.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE